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**MARTIN & FERRARO, LLP**  
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JAN 09 2009

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**FACSIMILE TRANSMITTAL**

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**TO:**

Name: Mail Stop RCE  
Group Art Unit 3774  
Examiner Paul B. Prebilic

Firm: U.S. Patent &amp; Trademark Office

Fax No.: 571-273-8300

Subject: U.S. Patent Application No. 09/593,591  
Gary K. Michelson

Filed: June 13, 2000

MANUFACTURED MAJOR LONG BONE RING  
IMPLANT SHAPED TO CONFORM TO A  
PREPARED INVERTEBRAL  
IMPLANTATION SPACE

Attorney Docket No. 101.0078-00000

Customer No. 22882

Confirmation No.: 5619

**FROM:**

Name: Thomas H. Martin, Esq.

Phone No.: 330-877-0700

No. of Pages (including this): 46

Date: January 9, 2009

Confirmation Copy to Follow: NO

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**Message:****CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8**

I hereby certify that the attached Transmittal Form (in duplicate; the total amount of \$810.00 to cover the RCE fee is to be charged to Deposit Account No. 50-3726) and Amendment are being facsimile transmitted to the U.S. Patent and Trademark Office on January 9, 2009.

  
Sandra L. Blackmon

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FORM PTO-1083

Attorney Docket No.: 101.0078-00000  
Customer No. 22882

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary K. Michelson

Serial No: 09/593,591

Filed: June 13, 2000

For: MANUFACTURED MAJOR LONG BONE  
RING IMPLANT SHAPED TO CONFORM TO  
A PREPARED INTERVERTEBRAL  
IMPLANTATION SPACE

Confirmation No.: 5619

Art Unit: 3774

Examiner: Paul B. Prebilic

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JAN 09 2009Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Further to the Advisory Action dated December 18, 2008, transmitted herewith is a Request for Continued Examination (RCE) and Amendment in reply to the Final Office Action dated October 9, 2008 in the above-identified application.

No additional fee is required.  
 Applicant hereby requests a one-month extension of time to respond to the above office action.

The fee has been calculated as shown below:

	(Col. 1) CLAIMS REMAINING AFTER AMENDMENT		(Col. 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Col. 3) PRESENT EXTRA*	LG/SM \$ ENTITY FEE	ADD'L FEE DUE
TOTAL CLAIMS FEE	262	-	264	**	LG=\$52 SM=\$28	\$52
INDEPENDENT CLAIMS FEE	9	-	9	***	LG=\$220 SM=\$110	\$220
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS					LARGE ENTITY FEE = \$390 SMALL ENTITY FEE = \$195	\$ 0
					TOTAL	\$ 0

\* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.  
\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.  
\*\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space. The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box on Col. 1 of a prior amendment or the number of claims originally filed.

The total amount of \$810.00 to cover the RCE fee is to be charged to Deposit Account No. 50-3726.  
 The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-3726. A copy of this sheet is enclosed.  
 Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims  
 Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,

MARTIN &amp; FERRARO, LLP

By:   
Thomas H. Martin  
Registration No. 34,383

Date: January 9, 2009

1557 Lake O'Pines Street, NE  
Hartville, Ohio 44632  
Telephone: (330) 877-0700  
Facsimile: (330) 877-2030

FORM PTO-1083

Attorney Docket No.: 101.0078-00000  
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In re application of:

Gary K. Michelson

Serial No: 09/593,591

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Confirmation No.: 5619

Art Unit: 3774

Examiner: Paul B. Prebilic

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TOTAL CLAIMS FEE	262	-	264	**	0	LG=\$62 SM=\$26	\$62
INDEPENDENT CLAIMS FEE	9	-	9	***	0	LG=\$220 SM=\$110	\$220
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS						LARGE ENTITY FEE = \$390 SMALL ENTITY FEE = \$185	\$0
						TOTAL	\$0

\* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.  
 \*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.  
 \*\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space. The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box on Col. 1 of a prior amendment or the number of claims originally filed.

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Respectfully submitted,

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JAN 09 2009

PTO/SB/30 (10-08)

Approved for use through 11/30/2008. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Request  
for  
Continued Examination (RCE)  
TransmittalAddress to:  
Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Application Number	09/593,591
Filing Date	June 13, 2000
First Named Inventor	Gary K. Michelson
Art Unit	3774 TRADES 00000073 222352
Examiner Name	Paul B. Prebilic
Attorney Docket Number	101.0078-00000

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a.  Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i.  Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_  
ii.  Other \_\_\_\_\_

b.  Enclosed

i.  Amendment/Reply      iii.  Information Disclosure Statement (IDS)  
ii.  Affidavit(s)/ Declaration(s)      iv.  Other \_\_\_\_\_

2. **Miscellaneous**

a.  period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(l) required)  
b.  Other \_\_\_\_\_

3. **Fees**

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.  
The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to

a.  Deposit Account No. 50-3726

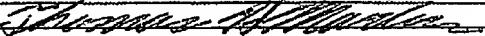
i.  RCE fee required under 37 CFR 1.17(e)  
ii.  Extension of time fee (37 CFR 1.136 and 1.17)  
iii.  Other \_\_\_\_\_

b.  Check in the amount of \$ \_\_\_\_\_ enclosed

c.  Payment by credit card (Form PTO-2038 enclosed)

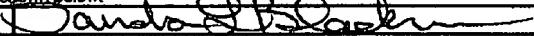
**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature		Date	January 9, 2009
Name (Print/Type)	Thomas H. Martin	Registration No.	34,383

## CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature 

Name (Print/Type)	Sandra L. Blackmon	Date	January 9, 2009
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This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.